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SENATE BILL 584

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Gerald P. Ortiz y Pino

AN ACT

RELATING TO THE NEW MEXICO FINANCE AUTHORITY; EXPANDING THE LIST OF QUALIFIED ENTITIES AND PUBLIC PROJECTS FOR THE PURPOSES OF THE PUBLIC PROJECT REVOLVING FUND; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO ISSUE BONDS FOR RENEWABLE ENERGY ELECTRICAL TRANSMISSION AND STORAGE PROJECTS; AMENDING THE NEW MEXICO FINANCE AUTHORITY ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the New Mexico Finance Authority Act is enacted to read:

"[NEW MATERIAL] BONDS FOR RENEWABLE ENERGY ELECTRICAL TRANSMISSION AND STORAGE PROJECTS.--The authority may issue bonds on behalf of renewable energy electrical transmission and storage projects to be entered into pursuant to the New Mexico Renewable Energy Transmission Authority Act."

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1 Section 2. Section 6-21-3 NMSA 1978 (being Laws 1992,
2 Chapter 61, Section 3, as amended) is amended to read:

3 "6-21-3. DEFINITIONS.--As used in the New Mexico Finance
4 Authority Act:

5 A. "authority" means the New Mexico finance
6 authority;

7 B. "bond" means any bonds, notes, certificates of
8 participation or other evidence of indebtedness;

9 C. "bondholder" or "holder" means a person who is
10 the owner of a bond, whether registered or not;

11 D. "emergency public project" means a public
12 project:

13 (1) made necessary by an unforeseen occurrence
14 or circumstance threatening the public health, safety or
15 welfare; and

16 (2) requiring the immediate expenditure of
17 money that is not within the available financial resources of
18 the qualified entity as determined by the authority;

19 E. "public project" means the acquisition,
20 construction, improvement, alteration or reconstruction of
21 assets of a long-term capital nature by a qualified entity,
22 including land; buildings; water rights; water, sewerage and
23 waste disposal systems; streets; airports; municipal utilities;
24 facilities eligible to be financed or acquired by the New
25 Mexico renewable energy transmission authority; public

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1 recreational facilities; public transportation systems; parking
2 facilities; and machinery, furniture and equipment. "Public
3 project" includes all proposed expenditures related to the
4 entire undertaking. "Public project" also includes the
5 acquisition, construction or improvement of real property,
6 buildings, facilities and other assets by the authority for the
7 purpose of leasing the property;

8 F. "qualified entity" means the state or an agency
9 or institution of the state or a county, municipality, school
10 district, two-year public post-secondary educational
11 institution, charter school, land grant corporation, acequia
12 association, public improvement district, tax increment
13 development district, federally chartered college located in
14 New Mexico, intercommunity water or natural gas supply
15 association or corporation, special [~~district or community~~
16 ~~water association~~] water, drainage, irrigation or conservancy
17 district or other special district created pursuant to law,
18 nonprofit foundation or other support organization affiliated
19 with a public university, college or other higher educational
20 institution located in New Mexico, [~~or~~] including a university
21 research park corporation, an Indian nation, tribe or pueblo
22 located wholly or partially in New Mexico, including a
23 political subdivision or a wholly owned enterprise of an Indian
24 nation, tribe or pueblo or a consortium of those Indian
25 entities, the New Mexico renewable energy transmission

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1 authority or a consortium of any two or more qualified entities
2 created pursuant to law; and

3 G. "security" or "securities", unless the context
4 indicates otherwise, means bonds, notes or other evidence of
5 indebtedness issued by a qualified entity or leases or
6 certificates or other evidence of participation in the lessor's
7 interest in and rights under a lease with a qualified entity
8 and that are payable from taxes, revenues, rates, charges,
9 assessments or user fees or from the proceeds of funding or
10 refunding bonds, notes or other evidence of indebtedness of a
11 qualified entity or from certificates or evidence of
12 participation in a lease with a qualified entity."

13 Section 3. Section 6-21-6 NMSA 1978 (being Laws 1992,
14 Chapter 61, Section 6, as amended) is amended to read:

15 "6-21-6. PUBLIC PROJECT REVOLVING FUND--PURPOSE--
16 ADMINISTRATION.--

17 A. The "public project revolving fund" is created
18 within the authority. The fund shall be administered by the
19 authority as a separate account, but may consist of such
20 subaccounts as the authority deems necessary to carry out the
21 purposes of the fund. The authority may establish procedures
22 and adopt rules as required to administer the fund in
23 accordance with the New Mexico Finance Authority Act.

24 B. Except as otherwise provided in the New Mexico
25 Finance Authority Act, money from payments of principal of and

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1 interest on loans and payments of principal of and interest on
2 securities held by the authority for public projects authorized
3 specifically by law shall be deposited in the public project
4 revolving fund. The fund shall also consist of any other money
5 appropriated, distributed or otherwise allocated to the fund
6 for the purpose of financing public projects authorized
7 specifically by law.

8 C. Money appropriated to pay administrative costs,
9 money available for administrative costs from other sources and
10 money from payments of interest on loans or securities held by
11 the authority, including payments of interest on loans and
12 securities held by the authority for public projects authorized
13 specifically by law, that represents payments for
14 administrative costs shall not be deposited in the public
15 project revolving fund and shall be deposited in a separate
16 account of the authority and may be used by the authority to
17 meet administrative costs of the authority.

18 D. Except as otherwise provided in the New Mexico
19 Finance Authority Act, money in the public project revolving
20 fund is appropriated to the authority to pay the reasonably
21 necessary costs of originating and servicing loans, grants or
22 securities funded by the fund and to make loans or grants and
23 to purchase or sell securities to assist qualified entities in
24 financing public projects in accordance with the New Mexico
25 Finance Authority Act and pursuant to specific authorization by

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1 law for each project.

2 E. Money in the public project revolving fund not
3 needed for immediate disbursement, including money held in
4 reserve, may be deposited with the state treasurer for
5 short-term investment pursuant to Section 6-10-10.1 NMSA 1978
6 or may be invested in direct and general obligations of or
7 obligations fully and unconditionally guaranteed by the United
8 States, obligations issued by agencies of the United States,
9 obligations of this state or any political subdivision of the
10 state, interest-bearing time deposits, commercial paper issued
11 by corporations organized and operating in the United States
12 and rated "prime" quality by a national rating service, other
13 investments permitted by Section 6-10-10 NMSA 1978 or as
14 otherwise provided by the trust indenture or bond resolution,
15 if money is pledged for or secures payment of bonds issued by
16 the authority.

17 F. The authority shall establish fiscal controls
18 and accounting procedures that are sufficient to assure proper
19 accounting for public project revolving fund payments,
20 disbursements and balances.

21 G. Money on deposit in the public project revolving
22 fund may be used to make interim loans for a term not exceeding
23 two years to qualified entities for the purpose of providing
24 interim financing for any project approved or funded by the
25 legislature.

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1 H. Money on deposit in the public project revolving
2 fund may be used to acquire securities or to make loans to
3 qualified entities in connection with the small loan program.
4 As used in this subsection, "small loan program" means the
5 program of the authority designed to provide financing for
6 public projects in amounts not to exceed one million dollars
7 (\$1,000,000) per project. A public project financed pursuant
8 to the small loan program shall not require specific
9 authorization by law.

10 I. Money on deposit in the public project
11 revolving fund may be designated as a reserve for any bonds
12 issued by the authority, including bonds payable from sources
13 other than the public project revolving fund, and the authority
14 may covenant in any bond resolution or trust indenture to
15 maintain and replenish the reserve from money deposited in the
16 public project revolving fund after issuance of bonds by the
17 authority.

18 J. Money on deposit in the public project revolving
19 fund may be used to purchase bonds issued by the authority,
20 which are payable from any designated source of revenues or
21 collateral. Purchasing and holding the bonds issued by the
22 authority in the public project revolving fund shall not, as a
23 matter of law, result in cancellation or merger of the bonds
24 notwithstanding the fact that the authority as the issuer of
25 the bonds is obligated to make the required debt service

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1 payments and the public project revolving fund held by the
2 authority is entitled to receive the required debt service
3 payments.

4 K. Money on deposit in the public project revolving
5 fund may be used to capitalize other financing programs of the
6 authority authorized by law, either directly or from proceeds
7 of bonds issued by the authority and secured by money in the
8 public project revolving fund.

9 L. A public project financed with the proceeds of
10 bonds issued by the New Mexico renewable energy transmission
11 authority that is purchased by the authority, or a loan made to
12 the New Mexico renewable energy transmission authority, shall
13 not require specific authorization by the legislature."

14 Section 4. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2009.

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